



Promoting the wise use of land

COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT

Tentative Notice of Action

MEETING DATE	CONTACT/PHONE	APPLICANT	FILE NO.
December 19, 2014	Kerry Brown, Project Manager	Russ and Linda	DRC2012-00085
LOCAL EFFECTIVE DATE	781-5713	Charvonia	
January 2, 2015	kbrown@co.slo.ca.us		
APPROX FINAL EFFECTIVE DATE			
January 23, 2015			
SUBJECT			
Hearing to consider a request by Russ and Linda Charvonia for a Minor Use Permit / Coastal Development Permit to allow for the construction of a 5,335 square foot single family residence and a 400 square foot workshop and garage. The project will result in the disturbance of approximately 15,600 square feet of a 25,800 square foot parcel. The project is located at 2599 San Dominico Avenue in the Cabrillo Estates neighborhood, in the community of Los Osos. The site is in the Estero planning area.			
RECOMMENDED ACTION			
1. Adopt the Mitigated Negative Declaration in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq.			
2. Approve Minor Use Permit / Coastal Development Permit DRC2012-00085 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.			
ENVIRONMENTAL DETERMINATION			
The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on November 13, 2014 for this project. Mitigation measures are proposed to address aesthetics, biological resources, geology and soils, public services/utilities, transportation/ circulation, and water resources and are included as conditions of approval.			
LAND USE CATEGORY	COMBINING DESIGNATION	ASSESSOR PARCEL NUMBER	SUPERVISOR DISTRICT(S)
Residential Single Family	Local Coastal Plan Area, Coastal Appealable Zone	074-483-021	2

PLANNING AREA STANDARDS:

Septic Tank requirements, Architectural Control Committee, Limitations of Use, Minimum Floor Area, Driveway Construction, Setbacks, and Height Limitations.

Does the project meet applicable Planning Area Standards: Yes - see discussion

LAND USE ORDINANCE STANDARDS:

None

Does the project conform to the Land Use Ordinance Standards: Yes - see discussion

FINAL ACTION

This tentative decision will become the final action on the project, unless the tentative decision is changed as a result of information obtained at the administrative hearing or is appealed to the County Board of Supervisors pursuant Section 23.01.042 of the Coastal Zone Land Use Ordinance; effective on the 10th working day after the receipt of the final action by the California Coastal Commission. The tentative decision will be transferred to the Coastal Commission following the required 14-calendar day local appeal period after the administrative hearing.

The applicant is encouraged to call the Central Coast District Office of the Coastal Commission in Santa Cruz at (831) 427-4863 to verify the date of final action. The County will not issue any construction permits prior to the end of the Coastal Commission process.

ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT:

COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242

EXISTING USES:

Vacant

SURROUNDING LAND USE CATEGORIES AND USES:

North: Residential Single Family/ residences

East: Residential Suburban and Residential Single Family/ residences and vacant

South: Residential Single Family/ residences and vacant

West: Residential Single Family/ residences

OTHER AGENCY / ADVISORY GROUP INVOLVEMENT:

The project was referred to: Public Works, Los Osos Community Services District, Los Osos Community Advisory Council, and the California Coastal Commission.

TOPOGRAPHY:

Moderately sloping

VEGETATION:

Maritime chaparral, non-native grassland, iceplant, and coyote brush

PROPOSED SERVICES: Water supply: Golden State Water Company Sewage Disposal: Individual septic Fire Protection: Cal Fire	ACCEPTANCE DATE: September 5, 2014
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DISCUSSION

PLANNING AREA STANDARDS:

Residential Single Family, Highland Area – Cabrillo Estates Standards

On-Site Wastewater Disposal

New development using on-site wastewater disposal systems shall protect coastal water quality and meet the requirements of the Regional Water Quality Control Board.

The project site is located in the community of Los Osos. In 1988, the California Regional Water Quality Control Board imposed a moratorium on new sources of sewage discharge in most of the community of Los Osos. This parcel is not included within the moratorium area.

The septic system will be evaluated in greater detail to insure compliance with the Central Coast Basin Plan and all of the requirements of the Regional Water Quality Control Board.

Architectural Control Committee

This standard states that no building permit or grading permit shall be approved until the applicant has filed with the Planning Department certification that the Architectural Control Committee for Cabrillo Estates has reviewed and approved plans and specifications.

The project complies with this standard because, as conditioned, the applicant must attain approval from the Architectural Control Committee for Cabrillo Estates before a building permit is issued unless the Architectural Control Committee does not exist anymore.

Limitations of Use

This standard specifies that uses are limited to single family dwellings, residential accessory uses, temporary dwellings, home occupations, schools pre through secondary (limited to day care centers) and water wells and impoundments.

The project complies with this standard because the applicant is proposing a single family dwelling and attached workshop and garage, all allowable uses.

Minimum Floor Area

The minimum floor area for a single family residence, excluding garages, carports, porches, patios and basements, is 1200 square feet.

The project complies with this standard because the applicant is proposing a 5,335 square foot single family residence with a 400 square foot workshop and garage.

Driveway Construction

Each parcel shall be equipped with a concrete driveway measuring at least 9 feet in width and at least 3-1/2 inches thick extending from a concrete approach apron, built in accordance with

County Standard Improvement Specifications and Drawings, to the garage door. The driveway is to be in place prior to issuance of an occupancy permit for the residence.

The project is conditioned to comply with this standard.

Setbacks

Required setbacks for single family residences are as follows: front – 25 feet; side – 5 feet; corner side – 10 feet; and rear – 20 feet.

The project meets these required setbacks.

Height Limitations

The maximum height of all buildings and structures shall be 15 feet above the highest point of the lot when measured from the highest point of the roof.

The project meets this requirement.

COASTAL ZONE LAND USE ORDINANCE STANDARDS:

Section 23.01.043 – Appeals to the Coastal Commission (Coastal Appealable Zone)

The project is appealable to the Coastal Commission because the project is proposed development between the ocean and first public road (Los Osos Valley Road).

Section 23.07.120 - Local Coastal Program

The project site is located within the California Coastal Zone as determined by the California Coastal Act of 1976 and is subject to the provisions of the Local Coastal Plan.

Section 23.07.170 Environmentally Sensitive Habitats & Section 23.07.176 - Terrestrial Habitat Protection

Section 23.07.176. The provisions of this section are intended to preserve and protect rare and endangered species of terrestrial plants and animals by preserving their habitats. Emphasis for protection is on the entire ecological community rather than only the identified plant or animal.

Section 23.07.170(e)(1)(iv). Habitat creation and enhancement. Where the project results in an unavoidable loss (i.e., temporary or permanent conversion) of habitat area, replacement habitat and/or habitat enhancements shall be provided and maintained by the project applicant. Plans

for the creation of new habitat, or the enhancement of existing habitat, shall consider the recommendations of the California Coastal Commission, the California Department of Fish and Wildlife and/or U.S. Fish and Wildlife Service. Generally, replacement habitat must be provided at recognized ratios to successfully reestablish the habitat at its previous size, or as is deemed appropriate in the particular biologic assessment(s) for the impacted site. Replacement and/or enhanced habitat, whenever feasible, shall be of the same type as is lost ("same-kind") and within the same biome ("same-system"), and shall be permanently protected by a deed restriction or conservation easement.

This project is located within an unmapped Terrestrial Habitat and Environmentally Sensitive Habitat Area (TH/ESHA) due to the presence of Morro manzanita, a federally threatened plant and Morro shoulderband snail, a federally endangered species. Mesa horkelia was also found on site. Mesa horkelia is not a listed plant species under the federal or state Endangered Species Acts, however it is a CNPS List 1B plant species.

A TH/SRA is known as an Environmentally Sensitive Habitat Area (ESHA). Uses proposed within an ESHA are supposed to be "resource dependent uses." A single family residence is not a use that is "resource dependent" within this sensitive area. However, not allowing a single family residence, a principally permitted use in the Residential Single Family land use category, could potentially constitute a taking under the 5th Amendment of the US Constitution. Therefore, allowing a single family residence to be developed on the property is considered to be a reasonable use of the land.

Additionally, the project is an infill project in a previously subdivided urban area. The subject parcel is lot 21 of Tract 1342, recorded in 1989. Designated building envelopes were established in the tract approval, with the objective to minimize impacts to Morro manzanita plants. The applicant will replace the Morro manzanita plants and Mesa horkelia plants on-site consistent with the ESHA development standards. Specifically, the proposed project will impact the resource, but mitigation is required at a 5:1 ratio for Morro manzanita and 2:1 for Mesa horkelia.

The site support Morro shoulderband snails and habitat for the Morro shoulderband snail. The applicant has applied for and received a permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884) as amended (Act), from the U.S. Fish and Wildlife Service for incidental take of the federally endangered Morro shoulderband snail. The applicant submitted a Habitat Conservation Plan to minimize and mitigate for impacts to the Morro shoulderband snail that may result from the development of the proposed residence. The Habitat Conservation Plan describes measures that will be implemented by the applicant to minimize and mitigate the impacts of the proposed project on the Morro shoulderband snail and its habitat.

The project includes restoration of damaged habitats (see condition number 30) and all Morro Manzanita and Mesa horkelia plants proposed for removal will be replaced at on-site (see condition number 32). In addition 35% of the site will be protected in perpetuity in an open space easement. The project also requires issuance of an incidental take permit (pursuant to section 10(a) (1) (B) of the Endangered Species Act of 1973) from the US Fish and Wildlife Service. The proposed project will not significantly impact the resource.

COASTAL PLAN POLICIES:

Shoreline Access: N/A

Recreation and Visitor Serving: N/A

Energy and Industrial Development: N/A

Commercial Fishing, Recreational Boating and Port Facilities: N/A

Environmentally Sensitive Habitats: ☒ Policy No's: 1, 2, 3, 29, 30, and 35

Agriculture: N/A

Public Works: ☒ Policy No: 1

Coastal Watersheds: ☒ Policy No: 7, 8

Visual and Scenic Resources: N/A

Hazards: N/A

Archeology: N/A

Air Quality: N/A

Environmentally Sensitive Habitats

Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats. New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area.

This project is located within an unmapped Terrestrial Habitat and Environmentally Sensitive Habitat Area. See ESHA discussion in Section 23.07.170 and 176.

Policy 2: Permit Requirement. As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat. This shall include an evaluation of the site prepared by a qualified professional which provides: a) the maximum feasible mitigation measures (where appropriate), and b) a program for monitoring and evaluating the effectiveness of mitigation measures where appropriate.

The proposed project includes the maximum mitigation measures and long term monitoring to ensure that the project will not result in a significant impact to the sensitive area.

Policy 3: Habitat Restoration. The county or Coastal Commission should require the restoration of damaged habitats as a condition of approval when feasible. Detailed wetlands restoration criteria are discussed in Policy 11.

The proposed project includes restoration of damaged habitats (see condition number 30).

Policy 29: Protection of Terrestrial Habitats. Designated plant and wildlife habitats are environmentally sensitive habitat areas and emphasis for protection should be placed on the entire ecological community. Only uses dependent on the resource shall be permitted within the identified sensitive habitat portion of the site.

The mitigation measures included as part of the project emphasize the protection on the entire ecological community. The mitigation measures include an in lieu fee to fund Morro shoulderband snail recovery tasks, restoration of damaged habitat onsite, replacement of all sensitive plants, and on site conservation of sensitive habitat areas.

Policy 30: Protection of Native Vegetation. Native trees and plant cover shall be protected wherever possible. Native plants shall be used where vegetation is removed.

The most sensitive portion of the site supporting native vegetation will be placed in an open space easement for long term protection. The project also includes restoration with native plants.

Policy 35: Protection of Vegetation. Vegetation which is rare or endangered or serves as cover for endangered wildlife shall be protected against any significant disruption of habitat value. All development shall be designed to disturb the minimum amount possible of wildlife or plant habitat.

The most sensitive portion of the site supporting native vegetation will be placed in an open space easement for long term protection. The project also includes restoration with native plants.

Public Works

Policy 1: Availability of Service Capacity. New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas. Prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed consistent with the Resource Management System where applicable. Permitted development outside the USL shall be allowed only if:

- a. It can be serviced by adequate private on-site water and waste disposal systems; and
- b. The proposed development reflects that it is an environmentally preferable alternative.

The applicant shall assume responsibility in accordance with county ordinances or the rules and regulations of the applicable service district or other providers of services for costs of service extensions or improvements that are required as a result of the project. Lack of proper arrangements for guaranteeing service is grounds for denial of the project or reduction of the density that could otherwise be approved consistent with available resources.

The project is within the Los Osos Valley Groundwater Basin. The total basin safe yield is 3250 afy. Total basin demand is currently estimated at approximately 3,400 afy. Therefore, the demand exceeds safe yield with a current deficit of approximately 150 afy. The Board of Supervisors certified a Level of Severity III for the Basin on March 27, 2007. The proposed

project is an infill project within an existing subdivided area. In order to be consistent with this policy, the applicant is required to retrofit existing water fixtures to result in a savings of 300 gallon per day (consistent with Title 19).

Coastal Watersheds

Policy 7: Siting of new development. Grading for the purpose of creating a site for a structure or other development shall be limited to slopes of less than 20 percent except: Existing lots of record in the Residential Single-Family category and where a residence cannot be feasibly sited on a slope less than 20 percent; When grading of an access road or driveway is necessary to provide access to an area of less than 20 percent slope where development is intended to occur, and where there is no less environmentally damaging alternative; The county may approved grading and siting of development on slopes between 20 percent and 30 percent through Minor Use Permit, or Development Plan approval, if otherwise required by the Coastal Zone Land Use Ordinance. Also in review of proposed land divisions, each new parcel shall locate the building envelope and access road on slopes of less than 20 percent. In allowing grading on slopes between 20 percent and 30 percent the county shall consider the specific characteristics of the site and surrounding area that include but are not limited to: the proximity of nearby streams or wetlands, the erosion potential and slope stability of the site, the amount of grading necessary, neighborhood drainage characteristics and measures proposed by the applicant to reduce potential erosion and sedimentation. The county may also consider approving grading on slopes between 20 percent and 30 percent where it has been demonstrated that there is no other feasible method of establishing an allowable use on the site without grading. Grading and erosion control plans shall be prepared by a registered civil engineer and accompany any request to allow grading on slopes between 20 percent and 30 percent. It shall also be demonstrated that the proposed grading is sensitive to the natural landform of the site and surrounding area. In all cases, siting of development and grading shall not occur within 100 feet of any environmentally sensitive habitat. In urban areas as defined by the Urban Services Line, grading may encroach within the 100 foot setback when locating or siting a principally permitted development, if application of the 100 foot setback renders the parcel physically unusable for the principally permitted use. Secondly, the 100 foot setback shall only be reduced to a point at which the principally permitted use, as modified as much as practical from a design standpoint, can be accomplished to no point less than the setback allowed by the planning area standard or 50 feet whichever is the greater distance.

The proposed project is consistent with this policy because the new residence will be located on slopes of less than 20 percent.

Policy 8: Timing of new construction. Land clearing and grading shall be avoided during the rainy season if there is a potential for serious erosion and sedimentation problems. All slope and

erosion control measures should be in place before the start of the rainy season. Soil exposure should be kept to the smallest area and the shortest feasible period.

The proposed project is consistent with this policy because the project is required to have an erosion and sedimentation control plan and all sedimentation and erosion control measures will be in place before the start of the rainy season.

Does the project meet applicable Coastal Plan Policies: Yes, as conditioned

COMMUNITY ADVISORY GROUP COMMENTS: Los Osos Community Advisory Council: The Land Use Committee of the Los Osos Community Advisory Council (LOCAC) reviewed the proposed project. The Committee recommended approval with the following comment: the off-set mitigation for water is performed outside the prohibition zone. The Land use Committee scheduled the project for LOCAC's agenda for the May 23, 2013 meeting. At the May 23, 2013 LOCAC meeting, LOCAC recommended approval.

AGENCY REVIEW:

Public Works – A drainage plan will be required with construction. Site run-off should be routed to the street.

Los Osos Community Services District – No response.

California Coastal Commission – This is outside the prohibition zone, correct? Good site planning in terms of proposing a house in the less non-vegetated areas of the parcel. Additional comments (see email attached).

LEGAL LOT STATUS:

The existing lot was legally created by a recorded map at a time when that was a legal method of creating lots.

Staff report prepared by Kerry Brown and reviewed by Steve McMasters.